

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

Appeal (Lodging) No. 1093 of 2005

In

Notice of Motion No. 14 of 2005

In

Petition No. 22 of 2002

Shantaben Ramanlal Khambholja and Anr. .. Appellants

V/s.

Rekha Girish Khambolja & Anr. .. Respondents

Mr. V.S. Kapse i/b. Mr. Ajit Kenjale for the Appellants
Mr. Sanjay Jain i/b. M/s. S.K. Srivastav & Co. for
the Respondents

**CORAM : DR. S. RADHAKRISHNAN &
S.C. DHARMADHIKARI, JJ.**

DATED : 27.10.2005.

P.C.:-

1. Heard the learned counsel for the Appellants and the Respondents. By this Appeal, the Appellant is challenging the order dated 16.8.2005 passed in the Notice of Motion No. 14 of 2005.

2. The main contention of the learned counsel for the Appellant is that the Appellant could not file affidavit in reply before the learned Single Judge and as such he is desirous of placing such material before the learned Single Judge, so as to enable the learned Single Judge to consider the same and modify the said order.

3. Under these circumstances, the learned counsel for the Appellant seeks leave to withdraw this Appeal with a liberty to approach the learned Single Judge for modification of order dated 16.8.2005.

(2)

4. Having regard to the facts and circumstances of the case, we allow the Appellant to withdraw the Appeal, which stands dismissed as such, with the aforesaid liberty.

(DR. S. RADHAKRISHNAN, J.)

(S.C. DHARMADHIKARI, J.)